

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

UNITED STATES OF AMERICA,

Case No: CR 12-0551 SBA

Plaintiff,

ORDER ACCEPTING REPORT AND RECOMMENDATION REGARDING GUILTY PLEA

VS.

JUAN CRUZ-LOPEZ,
aka “Juan Lopez Cruz,”
aka “Alvino Lemos,”

Docket 31

Defendant.

On December 26, 2012, the Court referred this matter to Magistrate Judge Westmore ("the magistrate") for a report and recommendation on the acceptance of Defendant's guilty plea. Dkt. 23. On January 11, 2013, the Defendant appeared before the magistrate and, with the assistance of counsel, waived his right to enter a guilty plea before a district judge and instead consented to enter his plea in a hearing before the magistrate. See Dkt. 31. The magistrate conducted a full hearing in the manner set forth in Federal Rule of Criminal Procedure 11. Id. After the advisements set forth in Rule 11, the Defendant entered a guilty plea in open court. Specifically, the Defendant pled guilty pursuant to a written plea agreement to Count One of the Indictment charging Defendant with being a deported alien found in the United States in violation of 8 U.S.C. § 1326(a) and (b)(2). Id. The magistrate found that Defendant was fully competent and capable of entering an informed plea, that he was aware of the nature of the charges and the consequences of the guilty plea, and that the guilty plea was knowing and voluntary and supported by an independent factual basis. Id.

On May 9, 2013, the magistrate issued a Report and Recommendation Regarding Guilty Plea in which she recommends that this Court accept Defendant's guilty plea. Dkt. 31. The Report and Recommendation advises the parties that they may serve and file specific written objections to the order within fourteen days after being served with a copy of the order. *Id.* No written objections to the Report and Recommendation were filed prior to the hearing. At the May 21, 2013 sentencing hearing in this matter, the parties indicated that they have no objections to the Report and Recommendation. Accordingly,

8 IT IS HEREBY ORDERED THAT the magistrate's Report and Recommendation
9 (Dkt. 31) is ACCEPTED, the Defendant's guilty plea is accepted, and the magistrate's
10 Report and Recommendation shall become the order of this Court.

11 IT IS SO ORDERED.

Dated: 5/21/13

SAUNDRA BROWN ARMSTRONG
United States District Judge